

**FREQUENTLY ASKED QUESTIONS (FAQs)**  
**Serna Farmworker Program**  
**Multifamily Housing**  
**October 26, 2004**

- 1. If the Serna Farmworker Funds that were part of the July 30, 2004 HOME NOFA are not expended, will the remaining Serna Funds rollover to the September 24, 2004 NOFA?**

HCD Response: *The Department is considering using the Serna Farmworker funds that were included in the HOME NOFA and not expended to supplement the funds in the September 24, 2004 NOFA.*

- 2. Does the Department have a list of Consultants that are capable of performing the required Market Study for Farmworker Program?**

HCD Response: *No, the Department does not have a list of Consultants capable of performing the market study using the new Market Study Requirements. Contact one of the members of the Staff for the Serna Farmworker Program to obtain information about consultants that have been used by other Serna Sponsors to perform market studies.*

- 3. What is the requirement for a market study for rehabilitation projects that already contain farm workers, especially if the Sponsor is a Housing Authority with extensive experience with the target population?**

HCD Response: *If a project is a rehabilitation only of an existing project that serves Serna Program eligible agricultural worker and the project has a clear history of eligible agricultural worker occupancy, the Department will consider what market information a Sponsor has and make a decision based on that. The Sponsor must provide solid information on eligible farmworker demand for units in closely comparable projects (especially if those projects have units restricted to Serna eligible farmworkers at income levels similar to the proposed project). The Sponsor must also provide information that the project will target the lowest income eligible farmworker population within the project demographic area. If it is determined that the information is insufficient, a market study may be requested.*

- 4. Can I count my existing equity as a form of match?**

HCD Response. *Applicants with rehabilitation projects who are proposing the use of in-kind contributions consisting of the value of existing structures as their matching share will have the valuation of those improvements closely scrutinized by the Department and should present adequate data about the pre-rehabilitation*

*value of the property. In addition, the use of existing structures as in-kind match contributions will be limited to 50 percent of the required total match.*

**5. Can the matching funds be used before I get Serna funds i.e. can construction start before the Project is awarded Serna funds?**

*HCD Response. No. If construction has started prior to the award of Serna funds, the Department is concerned that the Serna's funds are not needed to establish project feasibility.*

**6. What is the term for the grant in this program? What is the term for the loan in this program?**

*HCD Response. The term of the Serna Farmworker grant is 40 years for new construction and 20 years for all other construction (e.g., rehab.). The term of the Serna Farmworker loan is 55 years at 3% simple interest. The loan is a residual receipt loan with no annual payments, all due and payable after 55 years.*

**7. If the Serna funds are used for non-construction purposes, i.e. soft costs and the match funds do not trigger the prevailing requirement, would the Prevailing Wage requirement still have to be followed for the construction portion of the project? Do the non Serna units require Prevailing Wages?**

*HCD Response. To the best of the Department's knowledge, the actual use of the Serna funds does not relieve the project with complying with the prevailing wage requirements. Serna funds are awarded based on the project being constructed or rehabilitated. However, the Department is not the authority for Prevailing Wage decisions or determinations. Specific questions related to Prevailing Wage issues must be addressed to the Department of Industrial Relations (DIR) for their determination.*

**8. In order to receive a Serna award for funds, does the Sponsor have to have the other commitments in place?**

*HCD Response. Projects may be recommended for an award of Serna funds without other commitments being in place. However, the award package will contain procedures, requirements, and special conditions needed before actual funding will occur. Prior to construction, all funding must be committed.*

**9. If 25 percent or more of the project total development cost is Serna funds, will the Sponsor have to comply with Article XXXIV requirements?**

HCD Response. *Prior to an award of funds, the Applicant will be required to document that Article XXXIV authority exists for the project or the project is otherwise exempt as documented by the applicant's/borrower's attorney. Article XXXIV of the California Constitution requires advanced voter approval of certain publicly funded and regulated low-income housing projects. Under the requirements of the September 24, 2004 NOFA, Projects funded by the Serna Farmworker Program must either have Article XXXIV approval or be exempt from the need for this approval.*

**10. Capping the Serna units to the 50% AMI income level may hinder projects with providing housing to larger families whose income exceeds the 50% AMI level but who need affordable housing.**

HCD Response: *Restricted rents in Serna Assisted Units shall not exceed 30 percent of the percentage of AMI income used to target the Agricultural households. The income percentage of AMI utilized for targeting shall be supported by a Market Study and shall target the lowest income Agricultural households consistent with project financial feasibility. The restricted AMI income level for all Assisted Units shall not exceed the 50 percent AMI level unless shown to be required for project financial feasibility. The Department does not believe that those projects whose unit mix consist of 49 percent or less of Serna Rent Restricted Assisted Units will have a financial feasibility issues. Those projects whose unit mix consist of more than 49 percent of Serna Rent Restricted Assisted Units may exceed the 50% AMI level if it is shown that the increase rents are needed to pay operating expenses, debt service and to fund the required reserves. If the Market Study indicated a portion of the population to be served with the project area consisted of large families whose income was above the 50% AMI, the Department would consider this fact in determining a justified unit mix for the Serna units.*

**11. If I had a rehab project and used Serna funds, can I use funds from Rural Development for reserves?**

HCD Response. *Yes, if the Rural Development loan requirements allow their funds to be used for reserves.*

**12. If all the units of the Project are designated as Serna assisted units (occupied and recertified as an eligible agricultural worker), what is the procedure when one of the households becomes an ineligible tenant?**

HCD Response: *The employment of all households occupying Serna Assisted Units shall be certified by Borrower prior to occupancy and recertified annually thereafter in the manner specified in the Development's approved Management Plan. If, upon recertification, the employment of a household is not consistent with Program requirements, Borrower shall terminate the household's tenancy effective six months from the date of employment recertification. Borrower shall deliver written notice of the termination and reasons therefore within 15 days of the*

employment re-certification resulting in such termination. If the Development contains Non-assisted Units, a tenant subject to termination pursuant to this paragraph shall have the right of first refusal for any Non-assisted Unit of a size consistent with customary tenant occupancy standards. This right shall begin upon recertification and shall expire upon termination of the tenant's lease of the Assisted Unit. Tenancies shall not be terminated in the following circumstances:

- (1) If the household provides sufficient, additional evidence of agricultural employment to Borrower prior to the expiration of the six-month period following recertification, the household's tenancy shall not be terminated.
- (2) If, prior to the expiration of the six-month period following recertification, the household's unit may be reclassified as a Non-assisted Unit, as permitted by Serna Regulatory Agreement, the household's tenancy shall not be terminated.

**13. If a farmworker household goes above the 50% AMI restricted income level after they have lived in the unit, what will happen to that household?**

HCD Response: *The income and household size of all households occupying Serna Income Restricted Assisted Units shall be certified by the Borrower prior to occupancy and recertified annually thereafter in the manner specified in the Development's approved Management Plan. If, at the time of tenant recertification, the income of a household occupying an Income Restricted Unit exceeds the income limit designation for the Assisted Unit, the Borrower shall increase the household's Rent to the level for a comparable non-Assisted Unit for a household of similar income, and designate the next available comparable Unit as an Income Restricted Assisted Unit and either:*

- (a) the Unit shall be designated as a non-Assisted Unit, if the Development contains such Units; or*
- (b) the lease for the Unit shall terminate one year following the recertification date, if the Development does not contain non-Assisted Units and the household fails to provide the Borrower evidence that the household's income has declined to a level below the income limit for "lower income households."*

**14. Is there a minimum amount of Farmworker employment hours and/or annual income derived from agricultural work required to be considered an employed Farmworker?**

HCD Response: *"Agricultural household" or "farmworker household" is one or more interdependent persons who live together, one of whom derives or prior to*

retirement or disability derived a substantial portion of his or her income from agricultural employment as defined in Section 1140.4 of the Labor Code.

**15. Is the application the only information on the website that is required for submission?**

HCD Response: *In order for an application to be considered complete, the applicant must submit all information requested in the Application that is on the Department's website ([Http://www.hcd.ca.gov/ca/mhp/](http://www.hcd.ca.gov/ca/mhp/)). Please note that the Farmworker Housing Grant regulations set forth in California Code of Regulations, title 25, commencing with Section 7200 et seq. (referred to in this NOFA as the "Serna Farmworker Program Regulations"), and the Uniform Multifamily Regulations ("UMR") set forth in California Code of Regulations, title 25, commencing with Section 8300, the NOFA, the Market Study Requirements for the Serna Farmworker Program, and the responses to the Frequently Asked Questions (FAQ's) all provide guidance on the requirements of the Serna Farmworker Program and how information provided in the application will be used to make a determination for funding. Applicants should fully familiarize themselves with the information contained in these documents.*

**16. If I have a NEPA clearance that was completed by the County in which the Project is located, will it be accepted?**

HCD Response. *Whenever a proposed project will potentially have a significant impact on the environment and is not categorically exempt, Sponsors will be responsible for supplying all data and information to the public agencies that have primary responsibility for complying with the requirements of the National Environmental Policy Act (NEPA), if applicable, and the California Environmental Quality Act (CEQA). Applicants for projects shall provide the Department with assurances of compliance with CEQA and NEPA, as applicable.*

**17. Is application on the website used for both new construction and rehabilitation?**

HCD Response: Yes.

**18. Does the architect and/or the contractor have to be selected before submitting the application?**

HCD Response: No.

**19. Does the final borrower Limited Partner (LP) need to be formed prior to submitting a Serna Application.**

HCD Response: No.

**20. If we have one Sponsor Authorizing Resolution that is for two separate projects, will that suffice for the required Resolution?**

HCD Response: *Yes, as long as the resolution specifically names the Project for which funds are being requested, the specific dollar amount for the Serna Farmworker project, and identifies the person who is authorized to sign and bind the organization.*

**21. For rehabilitation projects, do we need an Environmental Assessment or just a Lead Based Paint and Asbestos study?**

HCD Response: *A Phase I Environmental Assessment is required for all projects prior to construction. For rehabilitation projects, the EA could include a lead based paint and asbestos study. These studies must be approved prior to the start of any rehabilitation work.*

**22. Item C-6, Column C, of the application asks for the number of Serna Farmworker Program assisted Units. Wouldn't all of them be restricted?**

HCD Response: *The number of Serna assisted units is calculated in Section A 2. The number of units that will be considered as Serna units is dependant upon the percentage of Serna Funds requested to the total development costs. Only if this percentage is equal to or greater than 25 percent will all the units be considered as Serna Assisted units (income and occupancy restricted).*

**23. What is the requirement for establishing reserves account? How are these accounts maintained?**

HCD Response: *Pursuant to Section 8308 of the Uniform Multifamily Regulations, the Sponsor shall establish an Operating Reserve account for the purpose of defraying potential operating shortfalls arising from unforeseen circumstances, beyond the rent-up period. The initial deposit to the operating reserve shall be funded from development funding sources in an amount specified in the Regulation. The Sponsor shall fully replace any withdrawals from the Operating Reserve over the regulatory term using available cash flow.*

*Pursuant to Section 8309 of the UMR's, the Sponsor shall establish a Replacement Reserve account separate from the Operating Reserve for the purpose of defraying the cost of infrequent major repairs and replacement of building components. For new construction projects, .6% of the structures line item in the Development Budget is the amount used in the calculation of the annual replacement reserve contribution. When currently considering applications for new construction projects where .6% of the structures line item exceeds \$800 per unit per year, the Department will utilize a replacement reserve amount equal to \$800 per unit per year. This amount will be adjusted to either*

*.6% of the cost of the project structures or the result of a Department approved reserve study prior to closing.*

*For rehabilitation projects, MHP requires a Physical Needs Assessment (PNA), which, if approved by the Department, will indicate the amount of the Replacement Reserve. When considering applications for rehabilitation projects which do not yet include a replacement reserve study, for purposes of this funding round, the Department will utilize an amount of \$442 per unit per year to calculate required annual Replacement Reserve contributions. This amount will be adjusted to conform to the result of a Department approved reserve study prior to loan closing. The Replacement Reserve will be funded from Operating Income or a combination of Operating Income and development sources.*

**24. If a service coordinator is shown as a project expense, does the service coordinator have to have a signed contract prior to application submission?**

*HCD Response: No, but the Sponsor must provide sufficient information concerning the service coordinator's duties and what services will be provide so that the Department can evaluate whether the service coordinator expense is a valid expense.*

**25. If a Sponsor received prior Serna funds for a project, will this affect their application for funds under the present NOFA for a different project?**

*HCD Response: No, as long as the Sponsor is in good standing with the Department concerning the previous project.*

**26. How does the Department audit work?**

*HCD Response: Borrower shall file an annual report with the State no later than 90 days after the end of each Fiscal Year for the Development. The report shall contain such information as is required by the State, including but not limited to the items listed below, and all claims, lawsuits, or other legal actions or claims against the Borrower or its agents related to the ownership or operation of the Development:*

- a. An income and expense statement for the reporting period.*
- b. A summary of the occupancy of the Development, indicating the number and type of Assisted and Nonassisted Units reserved for or occupied by farmworker households, the number of vacant Assisted and Nonassisted Units, and the number of evictions completed or in process.*
- c. A report on current and projected major maintenance needs of the Development.*

- d. *Information on the status of waiting lists, including the number of eligible farmworker households on lists for different Assisted and Nonassisted Unit sizes.*
- e. *Other information as required by the State to accurately monitor Borrower's performance hereunder.*

*The State may also perform or cause to be performed audits of any and all phases of the Sponsor's/borrower's activities related to the Project. At the State's request, the Sponsor/borrower shall provide at its own expense, an audit of the financial condition of the Project certified by an independent certified public accountant. The State may request any other information that it deems necessary to monitor compliance with the requirements set forth in the Department's loan documents.*

**27. What is the definition of a multifamily housing project?**

HCD Response: *A rental housing development for purposes of this NOFA means a structure or set of structures located on the same site with common financing, ownership, and management and which collectively contains five or more units.*

**28. If a project is unable to obtain 9% Low Income Housing Tax Credits at the next two subsequent opportunities following receipt of a Serna Farmworker Program award, will the project lose the Serna award?**

HCD Response: *For successful applicants that are proposing the use of 9% Low Income Housing Tax Credits as part of project financing, and have not already received a reservation of tax credits, the Standard Agreement will allow the applicant to apply for such a reservation at the next two subsequent opportunities following the receipt of a Serna Farmworker Program award. An applicant that does not receive a tax credit reservation in the timeframe described above must demonstrate, within ninety (90) days of the second tax credit application, that it has made reasonable progress toward securing acceptable alternative financing. The Department, at its sole discretion, may disencumber the funds and terminate the Standard Agreement if the Department determines that the progress demonstrated by the applicant is not satisfactory.*